IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 866 OF 2006.

Ahmed Khan @ Aftab Ahmed Khan. ... Appellant.

Versus.

The State of Maharashtra & another. ... Respondents.

Shri H.A.Solkar for the Appellant.

Shri A.R.Patil, A.G.P. for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 16th January, 2007.

P.C.:

1. By order dated 13th February 2003, the legal representatives of the deceased sole Appellant were ordered to be brought on record. The only substantive prayer in the suit filed by the Appellant/Plaintiff is prayer (b) which reads thus:

> (b) For a permanent injunction restraining the Defendants, their servants and agents from deporting the Plaintiff out of India.

Thus after the demise of the sole Appellant/Plaintiff, even if the Appeal is allowed, the only prayer made in the suit cannot be granted. Thus the Appeal does not survive.

2. Shri Solkar submitted that the legal representatives of the Appellant also want to establish their claim of citizenship of India. Considering the

limited scope of the suit, the issue regarding citizenship of the legal representatives of the Appellant cannot be gone into in this Appeal. It is for the legal representatives of the Appellant to adopt appropriate proceedings in that behalf.

3. Subject to what is stated above, the Appeal is dismissed. It is made clear that no adjudication is made as regards the claim of citizenship of the legal representatives of the Appellant.

Judge.